



May 3, 2000

Ms. Amy Swann  
General Counsel  
Texas State Board of Examiners of Psychologists  
333 Guadalupe, Suite 2-450  
Austin, Texas 78701

OR2000-1721

Dear Ms. Swann

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134948.

The State Board of Examiners of Psychologists (the “board”) received a request for (1) a copy of the professional file of a named individual; (2) copies of all disciplinary action taken against that individual; (3) all agreed orders or non-agreed orders that have resulted from all complaints and/or disciplinary actions filed against the individual; and (4) the entire complaint file(s) that have resulted in disciplinary action(s) taken against the individual. You state that you have released information responsive to the first three items of the request. You claim that the information responsive to item 4 is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative samples of information.<sup>1</sup>

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes. Section 501.205(a) of the Occupations Code provides, in relevant part, that “except as provided by Subsection (b), a complaint and investigation concerning a license holder and all information and materials compiled by

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<sup>1</sup>We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than those submitted to this office.

the board in connection with the complaint and investigation are not subject to . . . disclosure under Chapter 552, Government Code.” We conclude based on your arguments and our review of the documents that information responsive to item 4 of the request is protected from public disclosure pursuant to section 501.205(a) of the Occupations Code. Additionally, we find that the requestor does not fall within the exceptions under section 501.205(b) of the Occupations Code. Consequently, the board must not release the documents responsive to item 4 of the request.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

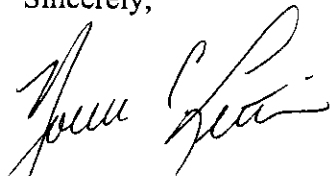
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Noelle C. Letteri', written in a cursive style.

Noelle C. Letteri  
Assistant Attorney General  
Open Records Division

ncl/nc

Ref: ID# 134948

Encl. Submitted documents

cc: Mr. Mark Donald  
Dallas Observer  
P.O. Box 190289  
Dallas, Texas 75219  
(w/o enclosures)